

***United States Court of Appeals
for the Second Circuit***



APPENDIX

133288

74-1497

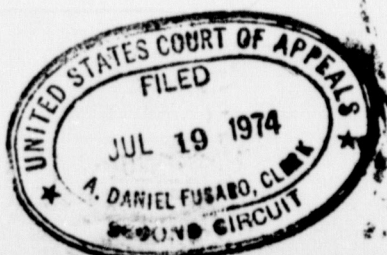
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UNITED STATES DISTRICT COURT
FOR THE SECOND JUDICIAL CIRCUIT

PAUL SANVILLE,)
Suing on Behalf of Him-)
self and All Others)
Similarly Situated,)
Plaintiff-Appellant)
vs)
PAUL HENNESSEY,)
Individually in His)
Official Capacity as)
Superintendent of the)
Community Correctional)
Center, St. Johnsbury,)
Vermont, Sued on Behalf)
of Himself and All others)
Similarly Situated;)
JULIUS MOEYKENS,)
Individually and in His)
Official Capacity as)
Superintendent of the)
State Correctional)
Facility, Windsor,)
Vermont,)
Defendants-Appellees)

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

APPENDIX OF PLAINTIFF-APPELLANT



WILLIAM M. DORSCH
Vermont Legal Aid, Inc.
3 Summer Street
Springfield, Vermont 05156

PAGINATION AS IN ORIGINAL COPY

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CIVIL DOCKET
UNITED STATES DISTRICT COURT

Civ. 73-226
Jury demand date:

HOLDEN

D. C. Form No. 106 Rev.

COURT

TITLE OF CASE	ATTORNEYS
	For plaintiff:
	Mr. Paul Sanville, pro se
	P. O. Box 26
	Windsor, VT 05089
PAUL SANVILLE	Kathleen M. Mitchell, Esq.
	William M. Dorsch, Esq.
	VLA, 15 South St., Springfield
VS.	
PAUL HENNESY, individually and in his official capacity as Superintendent of the Community Correctional Center, St. Johns- bury, Vermont;	
JULIUS MOEYKENS, individually and in his official capacity as Superintendent of the State Cor- rectional Facility, Windsor, Vermont, Defendants et al	
	For defendant: s
	Alan W. Cook, Esq.
	Assistant Attorney General
	Department of Corrections
	State office Building
	Montpelier, VT

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.
J.S. 5 mailed SEP 5 1973	Clerk			
J.S. 6 mailed APR 5 1974	Marshal			
Basis of Action:	Docket fee			
Civil Rights Act	Witness fees			
42 USC Sec. 1983				
Action arose at: 2	Depositions			

DATE 1973	PROCEEDINGS	Date Order Judgment N
Aug. 16	Filed Motion for leave to proceed in forma pauperis and for appointment of counsel, and affidavit in support of motions.	1.
" 28	Filed Order -- Plaintiff may file and the Clerk of this Court shall accept said complaint without prepayment of the required filing fee and that the Plaintiff shall not be required to pay the Marshal's fees for service of the same. Mailed copy to Pltf.	2.
" "	Filed Complaint.	3.
" 29	Issued Summons.	
" 31	Filed Notice of Appearance of Kathleen M. Mitchell, Esq. and William M. Dorsch, Esq., VLA, for Pltf.	4.
Sept. 4	Filed Summons returned served.	5.
" 20	" Defendants' motion for extension of time to file answer.	6.
" 24	Upon consideration of Defendant's motion for extension of time to file answer, it is	
" "	ORDERED: Granted. Attorneys notified.	
Sept. 27	Filed Deftrs' Motion for Summary Judgment.	7.
Oct. 10	" State of Vermont's Memorandum of Law.	8.
" 29	" Amended Complaint and Pltf's request for class action status.	9.
Nov. 2	" Pltfs' Motion to Consolidate this case with Civ. No. 73-227. (See 73-227)	
" 5	Filed Plaintiff's Memorandum of Law opposing Defendants' Motion for Summary Judgment.	10.
12/4		
Feb. 8	Filed Defts.' Supplementary Motion to Dismiss.	11.
" "	" Defts.' Supplementary Memorandum of Law.	12.
" "	In Court before Judge Holden. William M. Dorsch, Esq. for Pltff.; Charles Bristow and Alan Cook, Esqs. for Defts.	
" "	Hearing on Defts.' Motion for Summary Judgment.	
" "	Mr. Cook makes statements to Court in support of Motion for Summary Judgment.	
" "	Mr. Dorsch makes statements to Court in opposition to motion.	
" "	Decision reserved.	
" "	ORDERED: Pltff. has 10 days to file additional memorandum.	
" 27	Filed Defendant's Waiver of response to Plaintiffs Brief.	13.
Mar. 11	Filed Memorandum and Order--Defendants' Motion to Dismiss is granted. Mailed copy to Attorneys.	14.
" 20	" Notice of Appeal. Mailed copy to William M. Dorsch, Esq., & Kathleen Mitchell, Esq., Mr. Paul Sanville, Alan Cook, Esq., Court Reporter, Judge Holden & Clerk Fusaro.	15.
April 28	Mailed record on appeal to Clerk, U. S. Court of Appeals for the Second Circuit, N.Y., N.Y. Attys. notified.	

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

PAUL SANVILLE,
Plaintiff

vs.

PAUL HENNESSEY, Individually and in
His Official Capacity as Superinten-
dent of the Community Correction
Center, St. Johnsbury, Vermont,
JULIUS MOEYKENS, Individually and
in His Official Capacity as Superin-
tendent of the State Correctional
Facility, Windsor, Vermont,
Defendants et-al

* CIVIL RIGHTS COMPLAINT

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COMPLAINT

1. This is a civil action authorized by 42 U.S.C., Section 1983, to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. This Court has jurisdiction under 28 U.S.C. Section 1343. Plaintiff seeks a preliminary and permanent injunction against the defendants and monetary damages in excess of Ten Thousand Dollars.

2. Plaintiff, Paul Sanville, is a citizen of the State of Vermont and at all time pertinent to this action was and is a prisoner of the State of Vermont, and at all times pertinent to this action was under the immediate supervision of the respective defendants at one time or another.

3. Defendant, Paul Hennessey, is the Superintendent of the Community Correctional Center at St. Johnsbury, Vermont, and at all times pertinent to this action was acting in his capacity as the Superintendent thereof and is legally responsible for the maintenance, care and welfare, custody, of plaintiff.

4. Defendant, Julius Moeykens, is the Superintendent of the State Correctional Facility, at Windsor, Vermont, and at all times pertinent to this action was acting in his capacity as the Superintendent thereof and is legally responsible for the maintenance, care and welfare, custody, of plaintiff.

5. The facts briefly stated are; that on November 10, 1972, defendant Hennessey, acting under color of state law ordered plaintiff transferred from the Community Correctional Center at St. Johnsbury, Vermont, to the State Correctional Facility at Windsor, Vermont.

6. That defendant Moeykens received plaintiff's body on the aforesaid day and that it was accomplished without affecting plaintiff minimal procedure safeguards. That is to say; plaintiff was moved from the community lock-up to the confines of a maximum security penitentiary without notice of reason, nor was he given a hearing before a decision making tribunal or individual, or given opportunity and meaningful chance to explain his side of the story, or present any defense.

7. Plaintiff alleges the rules and discipline at the maximum security penitentiary are much harsher than are those of the Community lock-up.

8. Plaintiff further alleges his confinement at the maximum security facility deprives him of privileges present and obtainable at the Community lock-up, such as passes downtown and home over the weekends, etc.

Claim

9. Plaintiff alleges as a state prisoner he is entitled to a prior hearing on the question of his transfer from a state community lock-up to the state penitentiary, with its harsher discipline and rules and where substantial losses of privileges are involved in such a transfer.

10. Petitioner further alleges due process required that he be given notice and a hearing before a decision making tribunal or individual at which he must be given a fair and meaningful chance to explain his possession and opportunity to present a defense and this was not done and thus his transfer and present confinement are illegal.

11. Because of the acts of the defendants Hennessey and Moeykens, plaintiff is suffering great mental anguish, stiffer and much harsher discipline, loss of privileges and will continue to be so treated unless the Court issues an order requiring he be afforded due process of law in the form of an injunction.

Wherefore, plaintiff prays that this Court will enter judgment granting the following:

1. A preliminary and permanent injunction requiring the defendant Moeykens, refrain from inflicting harsher discipline on plaintiff without just cause and without procedural due process than he was subjected to prior to transfer or in the alternative return him to his former status as a prisoner at the Community lock-up.

2. Grant plaintiff compensatory damages from defendant Hennessey, in the amount of \$10,000.00 and punitive damages of \$100.00 a day for each day plaintiff has had to suffer the harsher discipline, unobtainable privileges, and rigors of maximum security lock-up, at the State Correctional Facility at Windsor.

3. Permanently enjoin defendant Hennessey, from transferring plaintiff ever again without procedural due process and his agents and successors, if any.

4. Grant plaintiff compensatory damages from defendant Moeykens in the amount of \$10,000.00 and punitive damages in the amount of \$100.00 a day for each day so confined.

5. Grant plaintiff any other and further relief that the Court deems proper in the premises.

s/ Paul Sanville

Respectfully yours,

Paul Sanville
Box 26
Windsor, Vermont

Done before me at Windsor, Vermont, this 14th day of August,
1973.

Notary Public

s/ Kenneth C. Cooley, Sr.

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

PAUL SANVILLE,
Plaintiff

vs.

PAUL HENNESSEY, Individually and in
His Official Capacity as Superinten-
dent of the Community Correctional
Center, St. Johnsbury, Vermont;
JULIUS MOEYKENS, Individually and in
His Official Capacity as Superinten-
dent of the State Correctional
Facility, Windsor, Vermont,
Defendants

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* CIVIL ACTION FILE NO.
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* 73-226
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MOTION FOR SUMMARY JUDGMENT

Now come the defendants Paul Hennessey and Julius Moeykens and through their attorney, Alan W. Cook, Assistant Attorney General, State of Vermont, and move this Honorable Court for summary judgment for the following reasons:

The plaintiff Paul Sanville was transferred to the State Correctional Facility at Windsor, Vermont, on November 10, 1972. However, he was provided with a hearing prior to that transfer and informed of the reasons for his transfer. Contrary to his allegations, he was provided with notice of the reasons for his transfer and afforded a hearing before the Superintendent of the Facility. At that time, he chose to state his reasons for not desiring to being transferred, and a determination was made that the dangers of his continued residence at the community correctional center outweighed his objections. A copy of the Affidavit of the Superintendent of the Correctional Facility at St. Johnsbury is annexed hereto as Annex "A" and incorporated herein.

WHEREFORE, the defendants move this Honorable Court grant them summary judgment.

Dated at Montpelier, County of Washington, State of Vermont, this 26th day of September, 1973.

KIMBERLY B. CHENEY
Attorney General
State of Vermont

By: s/ Alan W. Cook

Alan W. Cook
Assistant Attorney General
Department of Corrections
State Office Building
Montpelier, Vermont 05602
Tel. (802) 828-2452
Attorney for defendants

CERTIFICATE OF SERVICE

I, Alan W. Cook, Assistant Attorney General for the State of Vermont, do hereby certify that I caused the foregoing Motion for Summary Judgment to be served upon Plaintiff's attorney Kathleen Mitchell, Esq., by mailing a copy of same to her, postage prepaid, at Vermont Legal Aid, Inc., 15 South Street, Springfield, Vermont 05156.

Dated at Montpelier, Vermont, this 26th day of September, 1973.

s/ Alan W. Cook
ALAN W. COOK
Assistant Attorney General
Department of Corrections

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

PAUL SANVILLE
Plaintiff

vs.

PAUL HENNESSEY, Individually and in
his official capacity as Superinten-
dent of the Community Correctional
Center, St. Johnsbury, Vermont;
JULIUS MOEYKENS, Individually and
in his official capacity as Superin-
tendent of the State Correctional
Facility, Windsor, Vermont
Defendants

CIVIL ACTION FILE NO.
73-226

AFFIDAVIT

STATE OF VERMONT)
) ss.
COUNTY OF WASHINGTON)

Now comes the defendant Paul Hennessey who, after being duly
sworn, does depose and say:

As stated in his Complaint the Plaintiff Paul Sanville was
transferred from the Community Correctional Center at St. Johnsbury,
Vermont, to the State Correctional Facility at Windsor, Vermont, on Novem-
ber 10, 1972. Said transfer was pursuant to a Transfer Order signed by
me on November 10, 1972, a copy of which is annexed hereto as Annex "A".
As is indicated in the attached Transfer Order, it appeared to me that
Paul A. Sanville was a security risk at the correctional center. He had
escaped from that center on October 6, 1972. His presence at the Facility
was adversely affecting the total treatment programs for the other resi-
dents in that it was necessary to assign additional officers to security
duties rather than treatment programs. Also at the time of his transfer,
Paul Sanville was pending a violation of his parole, and further charges
were pending against him in the Vermont District Court, Unit No. 5,
Washington Circuit. I had hoped that the charges in the Vermont District
Court would have been cleared up by the 10th of November, and I attempted

to hold Paul Sanville at the Correctional Center as long as I felt I could. I had been in touch with Mr. Sanville's attorney on several occasions prior to November 10, his attorney confirmed to me that he could not give me a definite date for a court appearance for this matter.

During the time I held Paul Sanville, prior to his transfer on November 10, he was a clear and present danger to the security of this institution and was continually disrupting the treatment program of other residents. However, I held him as long as I possibly could until I realized that the proceedings at the Vermont District Court could not be disposed of in the near future. On the date of Mr. Sanville's transfer, and prior to the actual transfer, I informed him of the reasons for my proposed action and provided him with an opportunity to state any objections he cared to make to it. He did state objections, and I considered them. However, in my opinion the interest of the institution as a whole outweighed his individual objections. He was then afforded an opportunity to contact his wife and his attorney to inform them that he was being transferred. To the best of my knowledge, he was able to contact his wife. However, I am unsure as to whether he was able to personally speak with his attorney.

I specifically recall one of the questions raised by Mr. Sanville during this interview. He asked whether this action would prevent his retransfer back to this institution at a later date. I told him it was up to the Transfer Committee, but that this action would not prevent such a retransfer. He was in fact retransferred back to this institution on January 31, 1973. Following his return to this institution in January, Mr. Sanville was involved in a series of activities which pointed out to us once again that he was a security risk and was adversely affecting the treatment program at this Facility.

On March 8, 1973, a disciplinary report was written against him for threatening an officer. On March 24, 1973, he was placed on probation for 30 days because of alleged drinking activities. Later, during this period of probation, he was again alleged to have been involved with alcohol. Subsequent to this, he was suspected of involvement in a charge of breaking and entering with two other residents of the Facility. As a result of this action, Mr. Sanville was charged with the offense of receiving stolen property and as an accessory to the offense of breaking and entering. This charge is pending before the Vermont District Court, Unit No. 4, Caledonia Circuit at the present time and to the best of my knowledge is expected to go to trial within the month.

In addition to his involvement in the aforementioned activities, Mr. Sanville, upon his return in January, persisted in agitating other prisoners. This was primarily a problem when he was confined in the so-called Block. Eventually, it was necessary to transfer Mr. Sanville again, and on April 25, 1973, he was retransferred to the State Correctional Facility at Windsor, for the aforementioned reasons. On that occasion, he was again given a prior hearing, at which time the reasons for his retransfer were explained to him in detail. On this occasion, as well as on the date of the prior transfer from this Facility, namely November 10, 1972, Mr. Sanville was provided with a copy of the Transfer Order which

outlined for him the reasons that served as the basis for his transfer.

Dated at Montpelier, County of Washington, State of Vermont,
this 18th day of September, 1973.

s/ Paul K. Hennessey

PAUL K. HENNESSEY
Superintendent
St. Johnsbury Community
Correctional Center

The above subscribed and
sworn to before me at
Montpelier in said county
this 18th day of September,
1973.

s/ Carol B. Lutz

NOTARY PUBLIC
My commission expires: 2/10/75

-11-

thereby denying the plaintiff adequate notice of the proposed transfer, an adequate opportunity to respond to the proposed transfer and a fair hearing before an impartial officer.

9. The plaintiff alleges that he is entitled to a prior hearing with reasonable notice, opportunity to prepare an answer and opportunity to be heard on the question of transfer from a state community correctional center to the state penitentiary, with its harsher discipline and rules and where substantial losses of privileges are involved in such a transfer.

10. The plaintiff further alleges that due process requires that he be given adequate notice and a hearing before an impartial decision maker at which he is given a fair and meaningful opportunity to explain his position and opportunity to present a defense and this was not done, thereby rendering his transfer and present confinement illegal.

C. The plaintiff hereby adds the following paragraphs to his complaint:

Class Action

12. Plaintiffs request that this suit be denominated a class action pursuant to Rule 23, F.R.Civ.P. on behalf of all other prisoners presently in the custody of the defendants or will in the future be in their custody, inasmuch as the following prerequisites of a class action are met:

a. The class of persons in the defendants' custody, that is all prisoners incarcerated in Vermont, is too numerous for joinder, inasmuch as the members of the class change from time to time, so that numerous joinders would be required.

b. The questions of law regarding protection of due process rights in interprison transfers are common to all prisoners under the supervision of the defendants.

c. The claims of the representative parties are typical of the claims or defenses of the class.

d. The representative parties will fairly and adequately protect the interests of the class.

D. The plaintiff hereby amends the following paragraph in his prayer for relief by deleting the original wording and substituting that written below:

3. Permanently enjoin the defendant Hennessey and all other Vermont Correctional Center Superintendents from transferring the plaintiff or any other inmates to another institution without affording the inmate adequate due process of law.

E. The plaintiff hereby adds the following paragraph to his prayer for relief:

5. Declare this a class action granting relief to all prisoners who are in the custody of the defendants.

Dated at Springfield, Vermont this 25th day of October, 1973.

PAUL SANVILLE

By: s/ William M Dorsch
William M Dorsch
Vermont Legal Aid, Inc.
15 South Street
Springfield, Vermont

s/ Kathleen M. Mitchell
Kathleen M. Mitchell
Vermont Legal Aid, Inc.
15 South Street
Springfield, Vermont

CERTIFICATE OF SERVICE

This is to certify that the Court Rules have been complied with in that a copy of the foregoing Amended Complaint has been forwarded to Alan W. Cook, Attorney for the defendants, by mailing a copy of same to him by first class mail, postage prepaid to his address of Assistant Attorney General, Department of Corrections, State Office Building, Montpelier, Vermont on this 25th day of October, 1973.

a/ William M Dorsch
William M Dorsch
Vermont Legal Aid, Inc.

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

PAUL SANVILLE, Suing on Behalf of
Himself and all others similarly
situated
Plaintiff

vs.

PAUL HENNESSEY, Individually and in
his official capacity as Superinten-
dent of the Community Correctional
Center, St. Johnsbury, Vermont, and on
behalf of himself and all others simi-
larly situated; JULIUS MOEYKENS,
Individually and in his official
capacity as Superintendent of the
State Correctional Facility, Windsor,
Vermont
Defendants

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CIVIL ACTION FILE NO.
73-226

SUPPLEMENTARY MOTION TO DISMISS

Now come the defendants in the above captioned cause and move to amend their Motion for Summary Judgment dated September 26, 1973. Said Motion for Summary Judgment should also have been captioned as a Motion to Dismiss for failure to state a claim for which relief may be granted. The Memorandum of Law submitted in support thereof includes argument for a motion to dismiss. The failure to correctly denominate the Motion was an inadvertent error.

In support of said Motion to Dismiss, the attached Supplementary Memorandum of Law is submitted.

Dated at Montpelier, State of Vermont this 8th day of February, 1974.

KIMBERLY B. CHENEY
Attorney General
State of Vermont

By: s/ Alan W. Cook
ALAN W. COOK
Assistant Attorney General
Department of Corrections
State Office Building
Montpelier, Vermont 05602
Tel. (802) 828-2452
Attorney for defendants

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

PAUL SANVILLE,
Suing on Behalf of Himself
and All Others Similarly
Situating
Plaintiff

vs.

PAUL HENNESSEY,
Individually and in his
official capacity as Superintendent
of the Community Correctional
Center, St. Johnsbury, Vermont,
sued on behalf of himself and all
others similarly situated;
JULIUS MOEYKENS,
Individually and in his official
capacity as Superintendent of the
State Correctional Facility, Windsor,
Vermont
Defendants

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* Civil Action File No. 73-226
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MEMORANDUM AND ORDER

The plaintiff in the above matter has initiated a civil rights action, pursuant to 42 U.S.C. § 1983, alleging that he was deprived of certain constitutional rights under color of state law. The gravamen of the plaintiff's complaint is that on November 10, 1972 he was transferred from the Community Correctional Center at St. Johnsbury, Vermont, to the State Correctional Facility at Windsor without adequate procedural safeguards in violation of his Fourteenth Amendment rights. The plaintiff subsequently amended his complaint to make it appear that he was returned to St. Johnsbury and then retransferred back to Windsor, again allegedly without adequate procedural safeguards. Also the plaintiff has requested that he be allowed to maintain the suit as a class action.

More specifically, the plaintiff contends that he was entitled to prior notice and a hearing with an opportunity to present defenses before he could be transferred to the state prison with its more restrictive

confinement. The plain tiff is seeking injunctive relief as well as compensatory and punitive damages. The defendants have moved for dismissal and/or summary judgment and have submitted the supporting affidavit of the defendant Paul Hennessey. According to Mr. Hennessey's affidavit, the plaintiff was transferred to Windsor because it was the affiant's feeling that he presented a security risk to the St. Johnsbury institution. The plaintiff was given notice of the contemplated transfer and the reasons therefore. However, he was not given an opportunity to rebut any of the charges against him or offer any defenses.

As a result of the representation of the parties at oral argument on the defendants' motion, it appears that the plaintiff is no longer incarcerated in any institution within the State of Vermont and is presently on parole. The case is now moot and should be dismissed for that reason.

It is well established that a federal court's jurisdiction is limited to actual cases or controversies within the meaning of Article III. The mootness doctrine runs to the jurisdiction of the court and is a function of the Article III requirement. E.g., North Carolina v. Rice, 404 U.S. 244, 246 (1971). Since the plaintiff has already been released from confinement, a determination of his rights against the defendants would be nothing more than an advisory opinion creating an unnecessary precedent on an important question of law. Liner v. Jafco, Inc., 375 U.S. 301, 306 n.3 (1964).

One exception to the mootness doctrine involves situations where the conduct complained of has ceased, but there is a possibility of a recurrence which would be within the terms of a proper decree. Trans-Missouri Freight Association v. United States, 166 U.S. 290 (1897). Thus is the conduct complained of is "capable of repetition, yet evading review,"

the case will not be rendered moot. Moore v. Ogilvie, 394 U.S. 814, 816 (1969). Obviously the exception in Moore, supra, does not apply to the plaintiff since there is no immediate possibility that he will be subject to such a transfer because he is no longer incarcerated. Nor is it very likely that the defendants will engage in the type of conduct complained of and then release the individual involved as soon as he brings an action merely to avoid judicial review of their activity.

Furthermore, the plaintiff does not come within the rule laid down in such cases as North Carolina v. Pearce, 395 U.S. 711 (1969) and Sibron v. New York, 392 U.S. 40 (1968). In those cases prisoners who had been released were allowed to challenge their convictions because of the continuing collateral consequences of the conviction. Here the plaintiff does not directly attack his conviction or seek to have it expunged, but only attacks the validity of his inter-prison transfer. There are, under Vermont law, no continuing collateral consequences that attach to such a transfer upon release.

Finally, there is ample authority to the effect that a prisoner's § 1983 action, seeking injunctive relief and, alternatively, monetary damages, becomes moot upon his release. See Mosley v. Ashby, 459 F.2d 477 (3rd Cir. 1972); McCarroll v. Morrow, 435 F.2d 560 (5th Cir. 1971); See Holland v. Purdy, 457 F.2d 802 (5th Cir. 1972); Bryant v. Blackwell, 431 F.2d 1203 (5th Cir. 1970).

In consideration of the foregoing, it is hereby ORDERED:

That the defendants' motion to dismiss is granted.

Dated at Rutland, in the District of Vermont, this 8th day of March, 1974.

s/ James S. Holden
James S. Holden
Chief Judge

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

PAUL SANVILLE,
Suing on Behalf of Himself
and All Others Similarly Situated
Plaintiff

vs.

PAUL HENNESSEY, Individually and
in his official capacity as
Superintendent of the Community
Correctional Center, St. Johnsbury,
Vermont, sued on behalf of himself
and all others similarly situated;
JULIUS MOEYKENS, Individually and
in his official capacity as
Superintendent of the State
Correctional Facility, Windsor,
Vermont
Defendants

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CIVIL ACTION FILE NO.
73-226

NOTICE OF APPEAL

Notice is hereby given that the above plaintiff appeals to the
United States Court of Appeals from the Memorandum and Order dismissing
this action, issued by this Court on March 8, 1974.

Dated at Springfield, Vermont this 19th day of March, 1974.

s/ William M Dorsch

William M Dorsch
Vermont Legal Aid, Inc.
15 South Street
Springfield, Vermont

CERTIFICATE OF SERVICE

This is to certify that the Court Rules have been complied with in
that a copy of the foregoing Notice of Appeal has been served upon Alan
W. Cook, Esq., by mailing a copy of same to him by first class mail, postage
prepaid, to his office at Assistant Attorney General, Department of
Corrections, Montpelier, Vermont on this 19th day of March, 1974.

s/ William M Dorsch

William M Dorsch
Vermont Legal Aid, Inc.